

OTTO SMALL

JUNE 30, 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 8384]

The Committee on the Judiciary, to which was referred the bill (H.R. 8384) for the relief of Otto Small, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to enable Otto Small to regain his U.S. citizenship which was lost by continuous residence abroad.

STATEMENT OF FACTS

The beneficiary of the bill is a 50-year-old native of Poland who was admitted to the United States for permanent residence in 1920 and became a citizen in 1933. From 1930 to 1940 he was employed as an engineer in the United States and South America by the Ford Motor Co. and the Texas Oil Co., and from 1940 to 1946 by the Army Engineers in the Panama Canal Zone, the Virgin Islands, and Puerto Rico. After establishing his own construction business in Colombia he expatriated himself by protracted residence abroad. He was admitted to the United States for permanent residence in June of 1959 and resides with his wife and son, U.S. citizens.

A letter, with attached memorandum, dated October 28, 1959, to the chairman of the Committee on the Judiciary of the House of Representatives from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., October 28, 1959.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 8384) for the relief of Otto Small, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiary by the Detroit, Mich., office of this Service, which has custody of those files.

The bill would permit the beneficiary, who lost U.S. citizenship by residing continuously for 5 years in a foreign state, to regain such citizenship status as existed immediately prior to its loss, by taking, within 1 year of the date of enactment, an oath of allegiance before any proper court in the United States or before any diplomatic or consular officer of the United States abroad.

Sincerely,

J. M. SWING, *Commissioner.*

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND
NATURALIZATION SERVICE FILES RE OTTO SMALL, BENEFICI-
ARY OF H.R. 8384

The beneficiary, who is now stateless, was born in Warsaw, Poland, on March 21, 1910. He resides with his wife at the home of his mother in Detroit, Mich., but expects shortly to move to Tucson, Ariz., where he plans to establish a construction firm. He alleges that his net worth is approximately \$100,000, and that his income, which consists of dividends from stocks, is in excess of \$500 a month.

Mr. Small first entered the United States for permanent residence in 1920, and was naturalized as a citizen of this country in 1933. His first marriage, which occurred in 1935, was terminated by divorce in 1938. One child born of this marriage has now attained adulthood. As a result of failure to maintain alimony payments, the beneficiary was convicted of contempt of court on March 11, 1940, and was sentenced to imprisonment for 6 months. He was released on May 13, 1940, upon making full payment of back alimony. Mr. Small was married to his present wife, Margaret Pollock, a citizen of the United States, on April 18, 1942. Mr. and Mrs. Small have one child, Richard, who was born in 1947.

From 1930 to 1940, the beneficiary was employed as an engineer both in the United States and in Central and South America by the Ford Motor Co. and the Texas Oil Co. He was also employed from 1940 to 1946 as a construction supervisor by the U.S. Army Corps of Engineers in the Panama Canal Zone, the Virgin Islands, and Puerto Rico. Mr. Small established his own construction business in Cartagena, Colombia, in 1948, and except for occasional visits to the United States, resided continuously in that country until 1959.

According to Mr. Small, he was informed by the American consul in Bogotá, Colombia, that he had become expatriated in 1953. The beneficiary reentered the United States for permanent residence with his family on June 28, 1959.

In addition, a letter dated April 22, 1960, to the chairman of the Committee on the Judiciary of the House of Representatives from the Commissioner of Immigration and Naturalization reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., April 22, 1960.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This refers to H.R. 8384, 86th Congress, in behalf of Otto Small.

Since the Service report of October 28, 1959, it has been learned that the beneficiary and his wife have moved from Detroit, Mich., to 910 North Alvernon Way, apartment G, Tucson, Ariz. The move was made on the advice of the family physician who recommended a milder climate for both the beneficiary and his wife. Their minor son is attending Staunton Military Academy, Staunton, Va.

The beneficiary recently purchased 70 acres of land near Tucson, Ariz., at a cost of \$175,000. He made a downpayment of \$70,000 and has assumed mortgages to cover the balance, payable within 6 years. He plans to subdivide this property into 180 improved homesites to be sold to individuals and builders.

Sincerely,

J. M. SWING, *Commissioner.*

A letter dated August 27, 1959, to the chairman of the Committee on the Judiciary of the House of Representatives from the Director of the Passport Office, U.S. Department of State, reads as follows:

DEPARTMENT OF STATE,
Washington, August 27, 1959.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CELLER: Thank you for your letter of August 13, 1959, requesting a report on H.R. 8384, for the relief of Otto Small.

The files of this Office show that Otto Small was born in Poland on March 21, 1910, that he emigrated to the United States in 1920 and was naturalized on June 26, 1933. He has resided abroad for various periods of time since his naturalization. The particular period of foreign residence which resulted in his losing U.S. citizenship was that which began on January 25, 1948, when he went to Colombia. He continued to reside there for 5 years and his residence was not for a reason which brought his case under the exemptive provisions of the 1940 or 1952 acts. He was documented as a U.S. citizen until January 25, 1953.

The Department has no objection to the enactment of H.R. 8384.
Sincerely,

FRANCES G. KNIGHT,
Director, Passport Office.

Congressman Thaddeus M. Machrowicz, the author of the bill, appeared before a subcommittee of the Committee on the Judiciary of the House of Representatives and testified as follows:

Mr. Chairman, this bill would permit the beneficiary, Otto Small, who lost U.S. citizenship by residing continuously for 5 years in a foreign state, to regain such citizenship status as existed immediately prior to its loss by taking within 1 year of the date of enactment, an oath of allegiance before any proper court of the United States or before any diplomatic or consular officer of the United States.

The beneficiary was born in Poland on March 21, 1910, and first entered the United States for permanent residence in 1920. He was naturalized as a citizen of this country in 1933. Until recently he resided in Detroit, Mich., but has now moved to Tucson, Ariz., where he has established a large construction firm. He is married to Margaret Pollock, a citizen of the United States, and has one child, Richard, who was born in 1946 and is now with the Staunton Military Academy at Staunton, Va. The move to Arizona was made on the advice of his family physician because of a serious illness with which he is afflicted.

From 1930 to 1940, the beneficiary was employed as an engineer both in the United States and in Central and South America by the Ford Motor Co., and the Texas Oil Co. From 1940 to 1946 he was employed as a construction supervisor by the U.S. Corps of Army Engineers in the Panama Canal Zone, the Virgin Islands, and Puerto Rico. In 1948 he established his own construction business in Cartagena, Colombia, and except for occasional visits to the United States he resided continuously in that country until 1959. In 1953 he became expatriated by reason of being away from the United States of America for a period of over 5 years. He alleges that because of the nature of the work he was doing he was unable to take immediate steps to regain his citizenship.

In his application he alleges fear for his life because of recent surgery he has undergone, and he is fearful that in case of death within the 3-year waiting period, his son would have to list his father as an alien which might be detrimental to his future career. Since his naturalization, he has never accepted citizenship of any other country where he was employed, even though the same was offered to him with high rank in the military of such government. He is at present stateless and all of his relatives and family residing in the United States are citizens of the United States with the exception of himself.

I would respectfully urge that the relief requested in the bill be granted to the beneficiary.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 8384) should be enacted.